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July 31, 1996

EX PARTE OR LATE FILED

The Honorable Reed E. Hundt
Chairman

The Honorable James H. Quello
Commissioner

The Honorable Rachelle B. Chong
Commissioner

The Honorable Susan Ness
Commissioner

Federal Communications Commission
1919 M Street, NW
Washington, DC 20554

Re: Internet Phone; Rulemaking #8775

Dear Mr. Chairman and Commissioners:

On behalf of America's Carriers Telecommunication Association ("ACTA"), by its attorneys, this letter is being filed to inform each of you, as the leaders of this nation's expert agency on telecommunications, of the continuing developments concerning Internet telephony. ACTA is assured that as the officials whose oath of office incorporates most directly the duty to "make available, so far as possible, to all the people of the United States a rapid, efficient, nation-wide, and world-wide . . . communication service with adequate facilities at reasonable charges, for the purpose of the national defense, for the purpose of promoting safety of life and property" each of you, in your official capacities, would want to be aware of the developments this letter summarizes. This letter is being filed in accordance with § 1.1200 *et seq.* of the Commission's Rules governing *ex parte* communications.

This letter may be viewed as supplementary to ACTA's petition for rulemaking regarding Internet telephony. Since ACTA filed its Reply Comments on June 8, the following developments have occurred which further underscores the inescapable and on-rushing need for immediate, well-

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considered and decisive development of sane, public interest policy for addressing the development of Internet telephony.

Technological Advances Accelerate

On July 22, 1996, Intel Corp. unveiled software for the World Wide Web that allows users of different computers and different Internet phone software to make telephone calls to each other over the Internet.¹ According to the Wall Street Journal, Intel will provide this software for free and will couple its interoperable phone software with Microsoft's Internet directory service which allows an Internet caller to locate an Internet user and automatically initiate a call to that user.

Intel's announcement came on the heels of Netscape's release of a web browser which provides interoperability of Internet telephony software.² Additionally, Netspeak has developed technology which acts as a gateway between the Internet and a plain old telephone service ("POTS") phone. In short, Internet phone interoperability has arrived and what was once a hobbyist's tool has become a standardized wide-spread means for placing telephone calls.

National "News" Hype

On July 17, 1996, ABC's World News Tonight ran a story touting Internet telephony and an Internet user's ability to make long distance calls at a fraction of market price. This type of media coverage tends to make light of a complex problem and encourages an unsuspecting public to use the Internet as an alternative to POTS, without any consideration as to its ultimate impact on the nation or its telecommunications infrastructure. Such "news" reporting strongly suggests, if not promotes the idea that telecommunications services have all but begun the transition from the traditional network to the Internet. What is indeed unfortunate about such "news" coverage is its complete failure to provide a balanced report or to inform the public about the real reasons Internet phone calls are currently promoted as "free" or cost next to nothing, not to mention that there is a serious potential that Internet telephony will adversely impact the traditional communications infrastructure, universal service and poorer Americans.

¹ In its Initial Comments, ACTA noted that Intel and Microsoft had announced, in March 1996, a platform for industry-based standards in Internet telephony. This announcement came a mere two weeks after ACTA filed its petition asking the Commission to institute a rulemaking proceeding concerning Internet telephony.

² In its Reply Comments, ACTA noted the release of the Netscape web browser and discussed the implications of interoperable software on the proliferation of Internet telephony and the resultant by-pass of the traditional network.

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As the text of Chairman Hundt's speech to the Inet '96 Conference in Montreal noted, "economics is about sending signals." Should the Commission continue to turn a blind eye towards the developments at hand, the Commission will be responsible for sending an unambiguous signal to the market: the expert agency charged with managing the evolution of the country's telecommunications infrastructure is prepared to permit the future of telecommunications to be fashioned outside its purview and irrespective of the grave uncertainties that may cause to the achievement of sensible, sane and fair incorporation of the advances of technology into the existing infrastructure.

Without Commission action in the near term, the signals being sent can only mean that the inequities resulting first, from government subsidization of the Internet and now, from today's super-carriers, when coupled with the enhanced service providers exemption from access charges, will go unremedied even if the result is to radically skew the marketplace.

ACTA finds some comfort in that the Chairman, while continuing along a path of current non-action, nonetheless recognizes the importance of the issues. In Montreal, through a spokesperson, Chairman Hundt, stated, "the increasing levels of Internet use are also beginning to affect the telephone network. Carriers engineered and deployed their switches based on the characteristics of voice traffic, where a conversation lasts an average of three minutes and an average customer attempts about three calls per busy hour. Internet users, however, typically engage in far longer calls than voice users. As a result, Internet usage is placing unexpected demand on local exchange carriers' switches, to the point that switch congestion is threatening service quality for voice users of some switches."

Recognizing the issues now demands they be addressed or at least the pathways to do so be put in place. Yet despite the Chairman's acknowledgments, the rapid developments in Internet telephony has not spurred Commission action. Whistling by the cemetery, Commissioner Hundt suggests that technology, competition and access charge reform will "make the problem go away." If this were true, the Chairman seems to have written the need for his agency's involvement out of the picture. But if there is no need for the Commission's involvement in such issues as raised by Internet telephony, then what is the purpose of having an "expert" body to deal with such far-reaching issues?

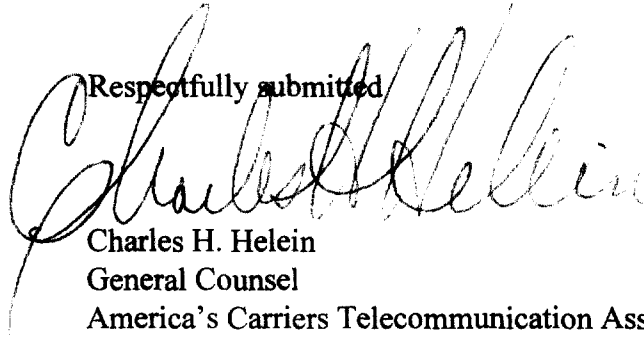
Reports about "gee whiz" technology, denigrating small business concerns as expressing a "horse and buggy" mentality and painting a glowing picture of self-generated solutions at a time when the nation's telecommunications infrastructure hangs in the balance, are strange platforms upon which to hinge the development of the public interest in a new communications age about to dawn. ACTA, for one, does not believe nor accept that such approaches will succeed in the provisioning

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of high quality "advanced telecommunications services to all Americans." The time to formulate intelligent policy and manage the evolution of the telecommunications infrastructure is now.

Respectfully submitted

A large, stylized handwritten signature in dark ink, which appears to read "Charles H. Helein". The signature is written over the typed name and title.

Charles H. Helein

General Counsel

America's Carriers Telecommunication Association

cc: ACTA Board
Chief of Policy Development
Chief of Common Carrier Bureau
Senator Larry Pressler
Representative Thomas Bliley
Internet Caucus